

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Juliette Duran,

Plaintiff,

v.

AT&T, Inc.,

Defendant.

Civil Action No.: 1:14-cv-7544

COMPLAINT

For this Complaint, the Plaintiff, Juliette Duran, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Juliette Duran ("Plaintiff"), is an adult individual residing in Hoffman Estates, Illinois, and is a "person" as defined by 47 U.S.C. § 153(39).

5. The Defendant, AT&T, Inc. ("AT&T"), is a Texas business entity with an address of 1010 North St. Mary's Street, San Antonio, Texas 78215-2109, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

6. Within the last year, AT&T began placing calls to Plaintiff's cellular telephone, number 224-xxx-8058, in an attempt to collect a consumer debt allegedly owed by Plaintiff's husband.

7. During all times mentioned herein, AT&T placed calls to Plaintiff's cellular telephone by using an automated telephone dialer system ("ATDS" or "predictive dialer") and by using an artificial or prerecorded voice.

8. When Plaintiff answered the calls, she would hear a prerecorded voice which instructed her to stay on the line to be connected to a live representative. After the message, Plaintiff would be connected to a live representative.

9. Plaintiff never provided her cellular telephone number to AT&T, and never provided AT&T with her prior express consent to place calls to her cellular telephone.

10. Furthermore, during a conversation with AT&T Plaintiff requested that the calls to her cellular telephone cease.

11. Despite lacking Plaintiff's permission, AT&T placed over twenty four calls to Plaintiff's cellular telephone.

12. The repeated calls caused Plaintiff significant inconvenience and concern.

COUNT I **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –** **47 U.S.C. § 227, et seq.**

13. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. Plaintiff never provided her cellular telephone number to Defendant and never provided her consent to be contacted on her cellular telephone.

15. Without prior consent Defendant contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

16. Defendant continued to place automated calls to Plaintiff's cellular telephone after being instructed to stop calling and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

17. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. Defendant's telephone system has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

19. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendant as follows:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Against the named the Defendant, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and
3. Granting the Plaintiff such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: September 29, 2014

Respectfully submitted,

By /s/ Sergei Lemberg

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